REMARKS/ARGUMENTS

The Examiner is thanked for the Final Office Action dated January 22, 2007. The status of the application is as follows:

- Claims 1-4, 8, 10-14, 18, 20, and 22-25 stand rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (US 6,177,931).

- Claims 5-7, 9, 15-17, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. in view of Dimitrova et al. (US 6,100,941).

The rejections to the claims are discussed below.

The Rejection of Claims 1-4, 8, 10-14, 18, 20, and 22-25 under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (US 6,177,931).

Independent **Claim 1** is directed towards processing electronic programming information and recites, *inter alia*, obtaining first and second values respectively representing characteristic data of at least one program at start and end times *from the program*. Alexander et al. is directed towards a displaying and recording television control interface.

As noted in the subject Office Action, Alexander et al. teaches a TVR 10/24 that saves program information obtained *from an electronic programming guide (EPG) or schedule information*. Obtaining information about a program from an EPG or schedule information is not the same as and does not teach or suggest obtaining information about a program from the program itself. Therefore, Alexander et al. does not teach each and every element as set forth in the subject claim and, thus, does not anticipate claim 1. Accordingly, this rejection should be withdrawn.

Claim 8 depends from claim 1 and recites that the values representing the start and end times of the program are generated from an audio portion from one or more frames of the program. The Office references column 12, lines 33-43, of Alexander et al.

to teach these claimed aspects. However, this section of Alexander et al. teaches intra-program indexing of recorded programs.

As disclosed in Alexander et al., intra-programming indexing delineates a recorded program by one or more indices. As an example, Alexander et al. provides that a four (4) hour recording of CNN may be indexed to delineate the recording by themes such as "International News," "National News, " "Sports," "Entertainment," "Business & Finance," and "Weather." Alexander et al. further discloses that audio content may also be used to additionally create a topical index for the recorded program. Creating *an intra-program index* to breakdown a recorded program by topic does not teach or suggest obtaining *values representing start and end times from an audio portion from one or more frames of the program* as recited in claim 8. Thus, this rejection should be withdrawn.

Claims 2-4 depend from independent claim 1, and by virtue of their dependency, are allowable for the reasons discussed above with respect to claim 1. Therefore, the rejection of these claims should be withdrawn.

Claim 10 depends from claim 1 and recites that at least one of the first and second values representing program start and end times are obtained from low-level features of the program. As noted above, Alexander et al. does not teach obtaining such information *from the program*, but rather receives program information from an EPG or scheduling information. Thus, Alexander et al. does not teach or suggest obtaining such information from low-level features of the program. It view of the above, it is respectfully requested that this rejection be withdrawn.

Independent **Claim 11** is also directed towards processing electronic programming information and recites, *inter alia*, obtaining first and second values respectively representing characteristic data of an ending of a preceding program and characteristics data of a program at end time *from a program*. As discussed above, Alexander et al. teaches receiving program information *from an EPG or schedule information* and not from the program itself. Thus, this rejection should be withdrawn.

Claims 12-14 depend from independent claim 11, and by virtue of their dependency, are allowable for the reasons discussed above with respect to claim 11. Therefore, the rejection of these claims should be withdrawn.

Claim 18 depends from claim 11 and recites that the values obtained *from a program* are generated from an audio portion from one or more frames of the program. As noted above, the section of Alexander et al. (column 12, lines 33-43) referenced in the Office Action to teach these claimed aspects instead discloses intra-programming indexing to delineate a recorded program by theme and topic. Alexander et al. does not teach or suggest the claimed aspects, and this rejection should be withdrawn.

Claim 20, which depends from claim 11, recites that at least one of the first and second values are obtained from low-level features of the program. As noted above in connection with claim 10, Alexander et al. does not teach or suggest these claimed aspects. Accordingly, this rejection should be withdrawn.

Independent **claim 22** recites setting a logic output means to TRUE when characteristic data obtained from a catalog is equivalent to complimentary characteristic data generated from a video signal source that is monitored at a time proximal to a program start time and stopping the comparison and, otherwise, setting the logic output means to FALSE and continuing the comparison. The Office asserts that the EPG microprocessor program of Alexander et al. teaches such aspects by determining true or false logic when comparing scheduling changes with a schedule. However, the Office does not indicate any section of Alexander et al. where such a teaching is found. In fact, such teaching is absent from Alexander et al. Moreover, the claim recites *setting* logic output means to TRUE or FALSE, and not merely determining true or false logic based on a comparison as suggested by the Office. Accordingly, this rejection should be withdrawn.

Claims 23-25, which depend from claim 22, also recite aspects regarding setting the logic output means to TRUE or FALSE and, thus, this rejection should be withdrawn for at least the reasons set forth in claim 22.

__The Rejection of Claims 5-7, 9, 15-17, 19, and 21 under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. in view of Dimitrova et al. (US 6,100,941).__

In the reply to the previous Office Action, Applicant's representative submitted that the Office failed to support an allegation that there is a suggestion or motivation to combine Alexandra et al. in view of Dimitrova et al. to teach the subject claims.

In the subject Office Action, the Office asserts that "the test for obviousness ... is what the combined teachings of the references would have suggested to those of ordinary skill in the art" and that "[b]oth references are in the same field of endeavor" and "as such combining the teaching of Dimitrova [et al.] with Alexander [et al.] would be within the knowledge of one or ordinary skill in the art...." In essence, the Office suggests that all references in the same field of endeavor are combinable simply because they are in the same field of endeavor and that the references should first be combined to determine what the combination would have suggested to one of skill in the relevant art. However, the mere fact that references __can__ be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. (See MPEP §2143.01 III citing *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990)).

Pursuant to the MPEP, "To establish a *prima facie* case of obviousness, ... there ___must___ be some ___suggestion or motivation___, either ___in the references themselves or___ in the ___knowledge generally available___ to one of ordinary skill in the art, ___to modify___ the reference ___or to combine___ reference teachings...." (See MPEP §2143). (Emphasis added). Thus, to establish a *prima facie* case of obviousness, the Office must establish the requisite suggestion and motivation for combining Alexander et al. and Dimitrova et al. "The initial burden is on the examiner to provide a suggestion of the desirability of doing what the inventor has done." (See MPEP §2142).

In the Office Action, the Office asserts that Alexander et al. and Dimitrova et al. are "in the same field of endeavor" and, "hence it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Dimitrova [et al.] into the system of Alexender [et al.] ... to provide a more accurate

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program detection system." Hence, the Office asserts that because the references are in the same endeavor, they are combinable rather then providing some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, for the purported modification to Alexander et al., as required. The Office's position is in direct contradiction to well-established Federal Circuit law and the MPEP rules. The Office's analysis is based on an incorrect interpretation of the applicable law and MPEP rules. The Office's basis for rejection is *clear error*, which is readily reversible on appeal.

In view of the above, Applicant's representative submits that the Office has failed to establish a *prima facie* case of obviousness with respect to claims 5-7, 9, 15-17, and 19, and respectfully requests the withdrawal of this rejection.

Independent **claim 21** recites a method of processing a catalog of electronic programming information that includes, *inter alia*, recording an incoming signal when the signature of the incoming signal matches a start time of a signature obtained from an electronic catalog and terminating the recording when the signature of the incoming signal matches an end time of the signature obtained from an electronic catalog.

The Office references Alexander column 11, line 63, to column 12, line 8, and column 12, line 53, to column 13, line 13, to teach these claimed aspects. However, these sections of Alexander et al. disclose automatically updating the time a program is scheduled to be recorded with program scheduling changes and preventing scheduling conflicts by not allowing a user to schedule the recording of programs during an overlapping time slot. Thus, this section of Alexander et al. relates to scheduling programs for recording and does not teach or suggest recording and terminating the recording of an incoming signal based on a comparison between a signature of the incoming signal and a signature from an electronic catalog.

Accordingly, this rejection should be withdrawn.

Conclusion

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In view of the foregoing, it is submitted that the claims herein distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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